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Attorneys for Plaintiff Pacific Information Resources, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Pacific Information Resources, Inc., a
California Corporation.

Plaintiff,

VS.

SIMPLE COMMUNICATIONS, an Alabama corporation; WILLIAM TRAVIS SULLIVAN, individually, AND DOES 1 through 100, inclusive, WHOSE IDENTITIES ARE UNKNOWN.

Defendants.

) CASE NO. CV-07-4131 MMC
)
) [Before the Honorable Maxine M.
) Chesney, Courtroom 7]
)
)
) **NOTICE OF APPLICATION AND**
) **APPLICATION FOR DEFAULT**
) **JUDGMENT BY COURT**
)
) [Filed Concurrently with Memorandum of
) Points and Authorities in Support of Default
) Judgment, Declaration of Konrad L. Trope,
) Pacific's Request for Judicial Notice
) Declaration of Timothy J. Koster, Declaration
) of Expert Hayden Bond, Declaration of
) Expert Ran Hadas, Ph.D. and [Proposed]
) Order Lodged Concurrently Herewith]
)

Complaint Filed: August 9, 2007
Default Entered : October 2, 2007

Hearing Date: April 4, 2008
Hearing Time: 9:00 a.m.
Department: 7

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

2 **PLEASE TAKE NOTICE** that on April 4, 2008 at 9:00 a.m., or as soon thereafter

3 Plaintiff Pacific Information Resources, Inc. (“Pacific”) hereby moves this Honorable Court in
 4 Courtroom 7 of the above-captioned Court, at the United States District Court, Northern District
 5 of California, located at 450 Golden Gate Avenue, San Francisco, CA 94102 California, Plaintiff
 6 will present its application for a default judgement against Defendant Simple Communications,
 7 an Alabama corporation and William Travis Sullivan (“Defendants”). The Clerk has previously
 8 entered the default of said Defendants on October 2, 2007.

9 At the time and place of hearing, Plaintiff will present proof of the following matters:

10 1. Defendant Sullivan is not an infant or incompetent person or in military service or
 11 otherwise exempted under the Soldiers’ and Sailor’s Civil Relief Act of 1940; and

12 2. Defendants have not appeared in this action; alternatively this Application is for
 13 the Noticed Hearing pursuant to *FRCP 55(b)(2)* in that there are facts and circumstances which
 14 might indicate that Defendants have appeared in this action. Said facts will be addressed in the
 15 attached Memorandum of Points and Authorities.

16 3. Plaintiff is entitled to judgment against Defendants on account of the claims
 17 pleaded in the complaint to wit:

18 On each Cause of Action separately:

19 1. For General and Special damages to be proven at trial, to the extent
 20 allowed by law;

21 2. For injunctive relief to the extent allowed by law;

22 3. For attorney's fees and costs to the extent allowed by law;

23 4. For punitive damages, or exemplary damages, or enhanced
 24 damages, or treble damages to the extent allowed by law;

25 On All Causes of Action together:

1. That the Defendants, their officers, agents, servants, employees,
heirs, assigns, successors-in-interest, and all persons in concert or participation
with the Defendants be preliminarily and permanently enjoined from:

a. directly, indirectly, vicariously, or contributorily infringing Plaintiff Pacific Information Resources' registered SERVICE MARKS;

b. directly, indirectly, vicariously, or contributorily infringing Plaintiff Pacific Information Resources' unregistered SERVICE MARKS which have become distinctive in the public's mind and cause the public to associate Plaintiff Pacific Information Resources' services and Website with the SERVICE MARKS;

c. directly, indirectly, vicariously, or contributorily infringing Plaintiff Pacific Information Resources' unregistered TRADE NAMES which have become distinctive in the public's mind and cause the public to associate Plaintiff Pacific Information Resources' services and Website with the TRADE NAMES;

d. directly, indirectly, vicariously, or contributorily selling or marketing services in any way that tends to deceive, mislead, or confuse the public into believing that the Defendants' service is in any way sanctioned by or affiliated with Plaintiff Pacific Information Resources' Website;

e. directly, indirectly, vicariously, or contributorily diluting the distinctive quality of Pacific Information Resources' SERVICE MARKS, TRADE NAMES, TRADE DRESS and the Website;

f. directly, indirectly, vicariously, or contributorily otherwise competing unfairly with Plaintiff Pacific Information Resources or the Website;

1 g. directly, indirectly, vicariously, or contributorily infringing
2 Plaintiff Pacific Information Resources' copyrights relating to or concerning its
3 Website and Source Code.

4 h. directly, indirectly, vicariously, or contributorily hosting
5 websites for or otherwise providing services or products to Airon Corporation, a
6 Massachusetts corporation, Alexei Borisov and Levon Gasparian, their agents,
7 heirs, assigns, affiliates, officers, servants, employees, successors-in-interest and
8 all persons in concert or participation with Airon Corporation and/or Alexei
9 Borisov and/or Levon Gasparian.

10 2. That the Defendants be directed to file with this Court and serve on
11 the Plaintiff within thirty (30) days after service of the injunction, a report in
12 writing, under oath, setting forth in detail the manner and form in which the
13 Defendants have complied with the injunction.

14 3. That the Defendants be required to account for and pay over to
15 Plaintiff Pacific Information Resources all gains, profits, and advantages realized
16 from the illegal activities described hereinabove, including, but not limited to, the
17 sale of services by Defendants that involved (directly or indirectly) infringing the
18 SERVICE MARKS and Copyrights of Plaintiff.

19 4. That the Defendants be required to pay to Plaintiff Pacific
20 Information Resources such damages as Plaintiff Pacific Information Resources
21 has sustained as a consequence of the Defendants' acts of copyright infringement,
22 technological circumvention, computer fraud, cybersquatting, service mark
23 counterfeiting, service mark infringement, false advertising, service mark dilution,
24 unfair competition, deceptive and unfair practices, including multiple damages, or
25 enhanced damages, or exemplary damages or punitive damages to the extent
26 allowed by the applicable laws.

5. That the Defendants be required to deliver up for destruction all products, packaging, labels, literature, advertising, and other material bearing copies, imitations, or reproductions, including confusingly similar variations of, the SERVICE MARKS, TRADE NAMES, or TRADE DRESS, WEBSITE and SOURCE CODE.

6. That the Defendants be required to pay Plaintiff Pacific Information Resources costs, expenses, and reasonable attorney fees in connection with this action, as provided in the various applicable statutes.

7. That Plaintiff Pacific Information Resources have such other, further, and different relief as this Court deems just and proper.”

4. The amount of judgment sought is the sum of \$19,000,000 in damages, plus punitive or enhanced damages as to be determined by the Court.

This Application is based on this Notice, the Memorandum Points and Authorities attached hereto, the attached Declaration of Konrad L. Trope, and the pleadings, files and other matters that may be presented at the hearing.

Respectfully submitted,

DATED: February 27, 2008

NOVO LAW GROUP, P.C.

BY: /s/
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Attorneys for Plaintiff PACIFIC
INFORMATION RESOURCES, INC.

PROOF OF SERVICE

I am employed in the County of Orange, State of California in the office of a member of the Bar of this Court at whose direction this service was made. I am over the age of 18 and not a party to the within action; my business address is: **4631 Teller Avenue, Suite 140, Newport Beach, California 92660.**

On February 28, 2008, I served the foregoing document described as:

NOTICE OF APPLICATION AND APPLICATION FOR DEFAULT JUDGMENT BY COURT

on the interested parties in this action by placing the original a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

XX BY MAIL: I deposited such envelope in the mail at Irvine, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee at the address on the attached Mailing List.

BY FEDEX: I deposited such envelopes at Irvine, California for collection and delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing packages for overnight delivery by Federal Express. They are deposited with a facility regularly maintained by Federal Express for receipt on the same day in the ordinary course of business.

BY FACSIMILE: I transmitted the foregoing document by facsimile to the party(s) identified above by using the facsimile number(s) indicated. Said transmission(s) were verified as complete and without error.

BY INTERNET/E-MAIL: I transmitted the foregoing document by e-mail to the party(s) identified above by using the Internet Protocol Addresses indicated. Said transmission(s) were verified as complete and without error.

BY INTERNET/E-MAIL WITH CLERK OF THE COURT: I certify that on 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing as indicated on the attached Mailing List.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

1 Executed on **February 28, 2008** at Irvine, California.

2 /s/
3 J. Renée Nordyke
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28 **Notice of Application and Application for Default Judgment by Court** **Case No. CV-07-4131**

pacific information resources\pleadings\sullivan and simple communications\ntc of application for default judgment final as filed 02 28 08

1 ***SERVICE LIST:***
2 *Pacific Information Resources v Simple Communications, et. al.*
3 Case No. C-07-4131 MMC

4 **VIA U.S. MAIL**

5 William Travis Sullivan
6 4931 Mason Road
7 Clayton, Washington 99110

8 Simple Communications
9 4931 Mason Road
10 Clayton, Washington 99110

11 Simple Communications
12 701 22nd Avenue
13 Tuscaloosa, Alabama 35401